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THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION No.27363 of 1996

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O R D E R:

Assailing the award dated 02-12-1995, passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D. No. 90 of 1995, setting aside the order of termination passed by the petitioner-Corporation against respondent No.1, and directing the petitioner to regularize the leave of respondent No.1 and to pay full wages and other monetary benefits to respondent Nos.2 to 5 herein for the period from 16.07.1990 to 04.10.1991, on which date respondent No.1 died, and to provide suitable employment to respondent No.2, the petitioner-Corporation has filed this writ petition.

Respondent No. 1 (deceased) was a Conductor in the petitioner-Corporation, and while he was in service, he was issued a charge sheet alleging that he unauthorizedly absented from duty from 16.12.1989 to 15.07.1990. Respondent No.1 submitted his explanation thereto, but the petitioner not satisfied with the said explanation, ordered for a domestic enquiry, and the Enquiry Officer, who conducted the domestic enquiry, submitted his report holding that the charges leveled against respondent No.1 stood proved. Based on the report of the Enquiry Officer, the petitioner-Corporation, vide order dated 05.11.1990, removed respondent No.1 from service. Aggrieved by the said removal orders, respondent No.1 filed an appeal before the appellate authority, which vide order dated 26.08.1991 dismissed the same. After the dismissal of the appeal, respondent No.1 died on 04.10.1991. After the death of respondent No.1, his legal heirs, namely respondent Nos.2 to 5, raised an industrial dispute in I.D. No. 90 of 1995 before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, praying to set aside the order of removal passed against respondent No.1 (deceased) and to direct the petitioner-Corporation to treat respondent No.1 to have died while in service. The Tribunal, vide award dated 02.12.1995, allowed the I.D. No. 90 of 1995 granting the reliefs, as stated supra. Questioning the said award, the petitioner-Corporation filed the present writ petition.

The learned Standing Counsel for the petitioner-Corporation contends that there were no reasons for the Labour Court to set aside the order of termination of respondent No.1, passed by the authorities of the petitioner-Corporation. Respondent No.1 has not informed about his absence in advance and not obtained prior permission for availing leave. He submitted that respondent No.1 took treatment in Government hospital instead of APSRTC hospital. The charges leveled against respondent No.1 stood proved in the domestic enquiry, and based on the report of the Enquiry Officer, the disciplinary authority ordered removal of respondent No.1 from service, which was confirmed in appeal. Therefore, the Labour Court committed an error in interfering with the order of removal passed by the petitioner against respondent No.1.

Learned counsel for the respondents submits that in emergency circumstances, respondent No.1 was admitted in Government Hospital, and thereafter, he appeared before the authorities concerned with a certificate, Ex.M.1, issued by the Government Hospital, and that there is no reason to disbelieve the said certificate, since it was issued by the Government Hospital. He further submits that the Divisional manager, Hyderabad, vide order, Ex.M.10, dated 26-08-1991, regularized the unauthorized absence of respondent No.1, and having regard to the said fact, the petitioner-Corporation cannot contend that respondent No.1 was unauthorizedly absent from duty.

Heard the learned Standing Counsel for the petitioner-Corporation and the learned counsel for the respondents.

The charges leveled against respondent No.1 are that he unauthorizedly absented from duty from 16.12.1989 to 15.07.1990, and that instead of taking treatment in APSRTC Hospital, Tarnaka, took treatment in Government General Hospital, Bolaram. Admittedly, respondent No.1, at the time of reporting to duty on 16.07.1990, produced medical certificate, Ex.M1, issued by the Deputy Civil Surgeon, Cantonment General Hospital, Bolaram, which certified that he underwent treatment from 16.12.1998 to 15.07.1990. If the Depot Manager suspected the genuineness of the medical certificate, produced by respondent No.1, he should have taken respondent No.1 to duty, and referred him to APSRTC Hospital, Tarnaka, for verification about the genuineness of the sickness pleaded by him. But, despite respondent No.1 producing the medical certificate, the Depot Manager,

neither had taken him on duty nor directed him to appear before the APSRTC Hospital, Tarnaka, for examining his health condition. The Labour Court, taking into consideration those aspects, has passed the impugned award, and no exception can be taken thereto.

For the foregoing reasons, I am of the view that there is no infirmity or perversity or wrong appreciation of evidence in the impugned award.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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(N.V.RAMANA, J)

14.12.2005.

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